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The Rapid Deterioration in Our National Leadership

Neither men nor nations can take the law into their own hands without paying a price. The price we are paying for our undercover war against Cuba is a rapid deterioration in our leadership, and in our moral standards. According to Chalmers Roberts in the *Washington Post* April 23 the President made a significant remark at the National Security Council meeting called the day before to discuss the Cuban debacle and the world situation. He said of South Vietnam that the Vietminh does not have a *New York Times* reporting how many people it is sending south to assassinate officials of South Vietnam. "He had in mind," Mr. Roberts wrote, "the pre-invasion stories in the American press about the Cuban fiasco," and "what has come out of the Cuban affair has been a determination to meet the Communist paramilitary tactics of guerrilla warfare, infiltration, sabotage and so on." Gen. Maxwell Taylor's assignment "now is going to try to figure out how to do it."

Animus Against A Free Press

These remarks of the President, more cryptically reported in the *New York Times* of April 24, are alarming in their implications. In the first place they misconceive the situation in South Vietnam as seriously as our government does that in Cuba. The real causes of the disintegration in South Vietnam lie in the failure of the Diem regime to build a viable government in the seven years since the Geneva settlement; its corruption, it false elections, its concentration camps, its suppression of democratic liberties, its mistreatment of minorities, are the causes of the growing rebellion. In the second place, the President's animus seems to be directed not at the follies exposed in the Cuban fiasco but at the free press for exposing them. The *New York Times*, and particularly staff members Tad Szulc and James Reston, has acquitted itself in recent weeks in the best traditions of a free press. It has brought to light conditions of which the President himself seems to have been but dimly aware. In the third place, the President's remarks are disturbing because they indicate he is out, not to rid our foreign policy of the CIA's incubus, but merely to improve our cloak-and-dagger methods, and to go further along the path of adopting the worst practices attributed to the Soviet bloc, even to the point of wistfully eyeing the advantages he thinks it derives from the absence of a free press.

The failure of the attempted invasion of Cuba, like so many of our failures in the postwar period, had its roots in an inability to understand popular feeling. But in the briefings held at State Department during the first two days of this week for visiting editors—a kind of mass brainwashing operation in which no time was allowed for any but the official point of view and little time for questions or discussion—there was no evidence of a willingness to face up to this fact. From the conceited Berle through the discombobulated Stevenson to the smug Allen Dulles not a single official was willing to admit that our intelligence was wrong in assessing the mood of the Cuban people. Official Washington has learned nothing, on the contrary it has drawn all the wrong conclusions, from the failure in Cuba. The Kennedy Administration's swift slide back to the conventional viewpoint of the stuffed shirts who direct our intelligence, military and diplomatic bureaucracies is evident from the men chosen by Kennedy to investigate the failure. Only a few weeks ago, the President was enforcing a blue pencil on the inflammatory remarks of Admiral Arleigh Burke, one of the biggest windbags in the military establishment; now the Admiral is to assist General Maxwell Taylor in the investigation. Admiral Burke is a member of the Joint Chiefs of Staff; one of the points which ought to be investigated was the poor advice given the President by them; how get a real investigation with the Admiral at General Taylor's elbow? Just to make sure that the inquiry will be equally impartial in assessing the role of the CIA, Allen Dulles will also serve on this panel; he too will be in the happy position of investigating himself. In addition, Attorney General Robert Kennedy has been added to the panel. Like his brother, he had been acting admirably until the Cuban crisis came along. Now, in advance of the investigation, he has issued a disingenuous opinion (see text in box on page two) which would so reduce the ambit of the Neutrality Act as to absolve the CIA and big business paymasters of the Cuban counter revolution from complicity. General Taylor himself is superior in intellectual capacity to most of the Pentagon crowd, but as a professional soldier he is concerned with military means for dealing with social change; events have over and over again demonstrated their futility. There is not a single man on this panel capable of approaching the Cuban ques-

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Out of the Mouths of Babes and Diplomats

Senator DODD: What do you think we ought to do? He is confiscating our property. He is causing trouble. He has created an espionage beachhead in the hemisphere.

Mr. [Arthur] GARDNER [Ambassador to Cuba, 1953-57]: I think we ought to morally support any movement of Cubans that is willing to take the job on. And I don't think there is any question that there are such people. I think we can't do it ourselves, because you know we can't send the Marines down. That would be the most terrible thing in the world.

—Senate Internal Security Committee, Aug. 27, 1960

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Decries Police State Tactics Soviet Style and Secrecy in the Field of Foreign Policy

Morse Warns War Against Cuba Will Set Us Back 50 Years in Latin America

Senator Wayne Morse, chairman of the Senate subcommittee on Latin American Affairs, was the first man to raise his voice in the U.S. Senate against war with Cuba. Excerpts from his speech of April 24 follow:

"Aside from this protocol [see box in col. 2], however, the other treaties to which the U.S. is a party and the domestic statutes which have been cited clearly are intended to prohibit the kind of activity now being carried on by Cuban exiles. To give this activity even covert support is of a piece with the hypocrisy and cynicism for which the U.S. is constantly denouncing the Soviet Union in the UN and elsewhere. . . . The argument is made that we must meet fire with fire; that we must beat the Communists at their own game. I reject that argument for two reasons. First, if we follow that course of action, we must adopt police state techniques and tactics. . . . Freedom is worth too much as a human system of government for us to surrender any of our freedom to a police state system in the field of foreign policy, dictated by denying to the people the knowledge of the facts of their own foreign policy, whether it is carried out through the CIA or any other agency. . . .

A Thorn In Our Flesh, Not A Dagger

"My second reason for rejecting the argument that the U.S. must itself fight in Cuba is that in my judgment, Cuba is not a dagger pointed at the heart of the United States, but is instead a thorn in our flesh. It is an irritating thorn and a painful one, but I do not think a case can be made, on the basis at least of events to date and prospective events of the immediate future, to sustain the argument that there must be military intervention in Cuba. . . .

"I say to Senators today that it is my judgment that if the United States seeks to settle its differences with Cuba through the use of military might, either direct or indirect, we shall be at least a half century recovering, if we ever recover, the prestige, the understanding, the sympathy and the confidence of one Latin American neighbor after another. . . . We would set back the foreign relations program of the U.S. in Latin America by at least 50 years by so doing. . . .

"I have sat in the offices of many Presidents of Latin American countries. Direct action on the part of the U.S. against Cuba would not make those governments more secure; it would make them less secure. . . . We must weigh Cuba carefully against such countries as Brazil, Venezuela, Ecuador, and other countries where economic and social change is rampant. . . .

"I know that the powerful preventive war group in the U.S. will not agree. There are those in the U.S. who take the position this very hour that we should have none of this rule-of-law approach to the settlement of these problems, but that we should make clear the U.S. is boss, so to speak, in the Western Hemisphere, and lay down the law of military might. But it is the same law of the jungle, whether it is practiced by the U.S. or any other power in the world. . . . Now is the time to follow peaceful procedures [through the OAS or if Castro will not accept, Morse says, then the UN] in an attempt to avoid a war, not to put them into practice after the war is over as a sort of rehabilitation program in order to bind up wounds we should have made the attempt to avoid inflicting in the first place.

"If all of these attempts at seeking an honorable peace in Cuba through resort to the OAS or to the UN result in failure, I still would not advocate direct military intervention or indirect military intervention in Cuba. . . ."

The Treaty Somebody Mislaid

"Each contracting state shall, in areas subject to its jurisdiction and within the powers granted by its constitution, use all appropriate means to prevent any person, national or alien, from deliberately participating in the preparation, organization, or carrying out of a military enterprise that has as its purpose the starting, promoting or supporting of civil strife in another contracting state, whether or not the government of the latter has been recognized."

—Article 5, Protocol to the Havana Pact, signed by the U.S. in 1957, ratified by the Senate July 30, 1959, "but the U.S. instrument of ratification," as Senator Morse told the Senate last Monday, "has never been deposited with the Pan American Union, and the protocol is therefore not in effect in so far as the United States is concerned. The clear inference is that the delay has been caused by sensitivity to the fact that the United States would be in violation of the protocol if it completed ratification."

Bob Kennedy's Disingenuous Gloss on the Neutrality Act Evades the CIA's Role

"Whoever, within the United States, knowingly begins or sets on foot or provides or prepares a means for or furnishes the money for, or takes part in, any military or naval expedition to be carried on from thence against the territory or domination of any foreign prince or state, or of any colony, district or people with whom the United States is at peace, shall be fined not more than $3,000 or imprisoned not more than three years, or both."

—U.S. Code, Title 18, Section 960

"There have been a number of inquiries from the press about our present neutrality laws and the possibility of their application in connection with the struggle for freedom in Cuba.

"First, may I say that the neutrality laws are among the oldest laws in our statute books. Most of the provisions date from the first years of our independence, and, with only minor revisions, have continued in force since the 18th Century. Clearly they were not designed for the kind of situation which exists in the world today.

"Second, the neutrality laws were never designed to prevent individuals from leaving the United States to fight for a cause in which they believed. There is nothing in the neutrality laws which prevents refugees from Cuba from returning to their country to engage in the fight for freedom. Nor is an individual prohibited from departing from the United States, with others of like belief, to join still others in a second country for an expedition against a third country.

"There is nothing criminal in an individual leaving the United States with the intent of joining an insurgent group. There is nothing criminal in his urging others to do so. There is nothing criminal in several persons departing at the same time.

"What the law prohibits is a group organized as a military expedition from departing from the United States to take action as a military force against a nation with whom the United States is at peace. There are also provisions of early origin forbidding foreign states to recruit mercenaries in this country. No activities engaged in by Cuban patriots which have been brought to our attention, appear to be violations of our neutrality laws."

—Attorney General Robert F. Kennedy, April 21

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Non-Conformist Who Cited Declaration of Independence Excluded from The Illinois Bar

Issue That Splits the Court Is Strict or Loose Construction of Basic Rights

The issue which so bitterly divides our Supreme Court is whether the fundamental guaranties of the Constitution are to be strictly construed in favor of the individual or to be trimmed, "balanced" and made subject to various exceptions in favor of the State. On one side are the strict constructionists, the liberals: Warren, Black, Douglas and Brennan. On the other are Frankfurter, Harlan, Clark and Whittaker. Shifting uneasily between them is Mr. Justice Potter Stewart.

The decision last Monday, which was marked by an unusual rebuke from the Chief Justice to Mr. Justice Frankfurter, was one in which Stewart joined the liberals. This was the case of Willie Lee Stewart, a moronic holdup man, thrice tried for murder. Stewart joined the liberals in a majority opinion by Mr. Justice Black which set aside the verdict. The verdict was set aside because the trial judge failed to declare a mistrial after the prosecutor let the jury know, when the defendant took the stand, that he had failed to take the stand in his earlier trials.

Can Such An Error Be Harmless?

This stirred such sharp feeling on the bench that Mr. Justice Frankfurter interpolated oral remarks in the statement of his dissent which seemed to the Chief Justice to question the motives of the majority, and thus to degrade the Court. The government in arguing the appeal conceded that the trial judge was in error but argued that the error was harmless. The technical rule involved, as established by Federal statute, is that a defendant's failure to take the stand is not to be used against him. This derives from the Fifth amendment's provision which says that no man shall be compelled to testify against himself. The majority held that a man on trial for his life has a right to the full protection of the rules established for fair trial. Whatever the actual effect on the jury in the Willie Lee Stewart trial, to let the verdict stand despite the erroneous ruling would have been to encourage evasion of this basic guaranty.

When the question of strictly applying constitutional guaranties turns up however in political cases where the Communist issue may be involved, Mr. Justice Stewart tends to switch over to the right wing of the Court. Only as recently as last December 12, Stewart wrote a 5-to-4 liberal opinion (in *Shelton v. Tucker*) holding unconstitutional an Arkansas statute aimed at the NAACP requiring every school teacher to list every organization to which he had belonged in the previous 5 years. Stewart held for the liberal majority that this impaired a teacher's right of association.

But last Monday, in three cases involving lawyers and linked to the issue of Communism, Stewart shifted sides and enabled Mr. Justice Harlan to write 5-to-4 decisions which impair the rights of lawyers. The Court upheld the disbarment of a New York lawyer, Albert Martin Cohen, who had pleaded the Fifth amendment in an "ambulance chasing" inquiry. There was no evidence against him; only the inference drawn from his invocation of the privilege. The political implications were obvious and the National Lawyers Guild had filed a brief amicus on his behalf.

In the other two cases, Harlan wrote 5-to-4 decisions upholding refusal of admission to the bar for failing to answer questions about Communism. One was that of Raphael Konigsberg. Four years ago a majority made up of Black, Warren, Douglas, Brennan and the conservative Burton ruled that California could not exclude Mr. Konigsberg from the bar on a record devoid of any evidence against him except his invocation of the Fifth on a charge of Communist membership two decades earlier. But since then Stewart has replaced Burton and cast his vote against Mr. Konigsberg, turning the earlier minority into a majority.

The other case was that of George Anastaplo, a brilliant young man, worthy of the best traditions of his native land and of his Greek forbears. Mr. Anastaplo got himself into trouble with the Illinois bar examiners by including the right of revolution (in words taken from the Declaration of Independence) in a reply to a personal history form question asking him to state what he considered to be the principles underlying the U.S. Constitution. Though there was no evidence that he had ever been a Communist, this led the admissions committee to put the $64 question which Mr. Anastaplo—on principle—refused to answer. He deserves the moving tribute Black paid him in the box below.

"Balancing Away" the Bill of Rights

"The Court, by stating unequivocally that there are no 'absolutes' under the First Amendment, necessarily take the position that even speech that is admittedly protected by the First Amendment is subject to the 'balancing test' and that therefore no kind of speech is to be protected if the Government can assert an interest of sufficient weight to induce this Court to uphold its abridgment. . . . The majority's 'balancing' test . . . tells us that no right to think, speak or publish exists in the people that cannot be taken away if the Government finds it sufficiently imperative or expedient to do so. Thus, the 'balancing test' turns our 'Government of the people, by the people and for the people' into a government over the people."

—Black dissenting in Konigsberg v. California

"If We Are To Keep Faith With the Founders . . . We Must Not Be Afraid To Be Free"

"This case illustrates to me the serious consequences to the Bar itself of not affording the full protections of the First Amendment to its applicants for admission. For this record shows that Anastaplo has many of the qualities that are needed in the American Bar. It shows not only that Anastaplo has followed a high moral, ethical and patriotic course in all of the activities of his life, but also that he combines the more common virtues with the uncommon virtue of courage to stand by his principles at any cost. It is such men as these who have most greatly honored the profession of the law. . . . The legal profession will lose much of its nobility and its glory if it is not constantly replenished with lawyers like these. To force the Bar to become a group of thoroughly orthodox, time-serving, government-fearing individuals is to humiliate and degrade it.

"But that is the present trend, not only in the legal profession but in almost every walk of life. Too many men are being driven to become government-fearing and time-serving because the government is being permitted to strike out at those who are fearless enough to think as they please and say what they think. This trend must be halted if we are to keep faith with the Founders of our Nation and pass on to future generations of Americans the great heritage of freedom which they sacrificed so much to leave to us. The choice is clear to me. If we are to pass on that great heritage of freedom, we must return to the original language of the Bill of Rights. We must not be afraid to be free."

—Black dissenting in the Anastaplo case

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Kennedy's Speech to the Editors Sounded Like Bismarck and Teddy Roosevelt

(Continued from Page One)

tion and the broader problems it illustrates with the independent mind and perceptive spirit they require.

Dulles Brazens It Out

The clearest sign of deterioration in national leadership lay in the tone, the implications and the deceptions of Mr. Kennedy's speech to the American Society of Newspaper Editors. The tone in its arrogant and wilful self-righteousness sounded like an echo of Bismarck and Teddy Roosevelt; this was the Monroe Doctrine nakedly restated as American domination of the hemisphere; here was exactly that doctrine of unilateral intervention Latin America so hates and fears. The implications were of a return to the worst days of the cold war, with a readiness to extend the use of cloak-and-dagger methods on a wider scale than ever before. The worst deception did not come out until several days later. Mr. Kennedy spoke that Thursday, April 20, of the Cuban affair as "a struggle of Cuban patriots against a Cuban dictator." But on Sunday, April 23 in both Washington and Miami many newspapermen heard but few dared to print the story of how the Cuban Revolutionary Council was taken into custody in New York on the eve of the Cuban invasion, kept in ignorance of it, shut off from all contact with their own forces, and held incommunicado at a supposedly abandoned airbase in Florida while statements were drafted in its name by the CIA and issued through the Lem Jones advertising agency in New York. Despite White House orders to the contrary, Batista men were not weeded out of the invasion forces and the CIA's notorious Mr. Bender who is cordially hated by all but the extreme right-wingers still ran the show. Yet Mr. Dulles at the big private press briefing Tuesday (not having been invited we are not bound by secrecy) was brazen enough to claim that his intelligence estimates were correct and that failure was due solely to the poor Cuban exiles themselves!

Fidel Castro won in Cuba by provoking Batista into destroying himself; the dictator in his fear and frenzy set out on so brutal a course as to undermine all support for himself except among his partners in plunder. I have all along feared that if we allowed ourselves to be drawn into war with Castro, he would provoke us similarly to self-destruction. The chain reaction is already in motion, and all Americans of sense and devotion must speak up quickly while it can still be stopped. The bright promise of the new Administration is being quenched by its own panicky folly; the military and the right wingers have been strengthened within our own government. A moral obduracy like that of South Africa's is apparent in the unthinking clamor for get-tough policies. The danger of direct invasion seems to have passed for the moment, but the new emphasis on "para-military" methods has an ominous ring; "para-military" formations poisoned the life of the German Republic under Weimar, assassinated some of its best leaders, and paved the way for Nazism. We cannot set up government agencies empowered to act lawlessly without infecting the life of our own Republic. To fall back on the conspiracy theory of history, to assume that human convulsion and aspiration are but puppet movements on string from Moscow, to place our hopes in counter-conspiracy, is to misread man and history to our own ultimate undoing. *April 26*

Appeal Against War With Cuba

The first public manifesto against intervention, direct or indirect, in Cuba was published by the Fellowship of Reconciliation as an advertisement in the New York Times Sunday Review of the Week April 23. The signers were Theodore Brameld, Henry J. Cadbury, Wm. C. Davidon, Paul Deats, Kermit Eby, Harrop Freeman, Erich Fromm, Maxwell Geismar, Robert Gilmore, Kyle Haselden, Alfred Hassler, Robert Heilbroner, H. Stuart Hughes, Charles R. Lawrence, Sidney Lens, Robert Lyon, Lenore Marshall, Stewart Meacham, C. Wright Mills, Herman J. Muller, A. J. Muste, Victor Obenhaus, Clarence Pickett, Derrell Randall, John Nevin Sayre, Howard Schomer, Dallas Smythe, I. F. Stone, Norman Thomas, Sidney Unger, Amos Vogel, George H. Watson, Kale Williams, Howard Yoder. Murray Kempton, David Reisman signed later.

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